

1 **Paul D. Polidoro (admitted pro hac vice)**
2 **Watch Tower Bible and Tract Society**
3 **of Pennsylvania, Legal Department**
4 **100 Watchtower Drive**
5 **Patterson, NY 12563**
6 **ppolidor@jw.org**
7 **Tel.: (845) 306-1000**
8 **Fax: (845) 306-0709**
9 **Anthony V. Smith (SBN 124840)**
10 **Law Office of Anthony V. Smith**
11 **204 East Second Avenue, #331**
12 **San Mateo, CA 94401-3904**
13 **Telephone: 650-548-0100**
14 ***Counsel for Plaintiff***

15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA**

In Re DMCA Subpoena to Reddit, Inc.

)	
:	
)	CASE NO. 3:19-mc-80005-SK
:	
)	
:	DECLARATION OF PAUL D.
)	POLIDORO IN SUPPORT OF WATCH
:	TOWER BIBLE & TRACT SOCIETY
)	OF PENNSYLVANIA'S OPPOSITION
:	TO MOTION TO QUASH

1 **PAUL D. POLIDORO**, counsel of record for Petitioner Watch Tower Bible and Tract
2 Society of Pennsylvania (hereinafter “Watch Tower”) in the above-referenced matter, hereby
3 declares as follows:

4 1. I am an Associate General Counsel of Watch Tower Bible and Tract Society of
5 Pennsylvania (“Watch Tower”). As such, I am fully familiar with the facts of this matter as set
6 forth herein based upon my review of the file and personal knowledge.

7 2. This underlying subpoena in this matter arises from the infringement of Watch
8 Tower’s copyrighted works by a subscriber to Reddit, Inc.’s service who uses the name
9 “Darkspilver”. One of the copyrighted works reproduced and displayed by Darkspilver on the
10 r/exjw subreddit was an article titled “What Gift Can We Give to Jehovah?” that was published
11 on JW.ORG¹ and that also appeared on the back-cover of the November 2018 issue of The
12 Watchtower – Announcing Jehovah’s Kingdom (hereinafter the “Article”). Darkspilver also
13 reproduced and displayed an internal document not intended for wide-spread public
14 dissemination titled C-5829Ca (hereinafter the “Chart”). Watch Tower is the copyright owner
15 of both of these items.

16 3. Watch Tower became aware that several of its copyrighted works were reproduced and
17 displayed on Reddit, Inc’s site by Darkspilver. Watch Tower conducted a good faith fair use
18 analysis of several uses of Watch Tower’s copyrighted works by u/Darkspilver on the r/exjw
19 subreddit forum. Watch Tower concluded that the two infringements reported to Reddit, Inc. on
20 December 19, 2018 did not constitute fair use of Watch Tower’s copyrighted works.

21 4. Watch Tower reported the infringements to Reddit, Inc. (“Reddit”) on December 19,
22 2018, pursuant to 17 U.S.C. § 512 (c)(3)(A). The two infringements that are the subject of the
23 underlying subpoena do not constitute the universe of copyright infringements of Watch
24

25
26
27
28 ¹ Available at: [https://www.jw.org/en/publications/magazines/watchtower-study-november-2018/gift-we-can-give-to-jehovah/#?insight\[search_id\]=67011f2d-cb71-44b8-8086-ad0552952627&insight\[search_result_index\]=8](https://www.jw.org/en/publications/magazines/watchtower-study-november-2018/gift-we-can-give-to-jehovah/#?insight[search_id]=67011f2d-cb71-44b8-8086-ad0552952627&insight[search_result_index]=8) (last viewed: April 8, 2019)

1 Tower's works by Darkspilver on Reddit's site.

2 5. Without knowing the true identity of "Darkspilver", Watch Tower is unable to defend
3 its copyrighted works against these infringements. In order to uncover the identity of
4 "Darkspilver", Watch Tower requested a subpoena from this Court pursuant to the Digital
5 Millennium Copyright Act ("DMCA"), 17 U.S.C. § 512(h) (the "DMCA Subpoena") on
6 January 10, 2019. Without Reddit's compliance with the subpoena Watch Tower has no ability
7 to determine the true identity of "Darkspilver".
8

9 6. As of April 9, 2019, there are 34.1 thousand reported subscribers to the "r/exjw"
10 subreddit community. See EXJW Reddit Cover Page Community Details available at:
11 <https://www.reddit.com/r/exjw> (last viewed: Apr. 9, 2019), attached hereto as Exhibit A. Of the
12 more than 34,000 "r/exjw" subreddit community, Watch Tower has issued DMCA-compliant
13 notices of infringement reporting copyright infringements by a total of two Reddit subscribers.
14 Watch Tower issued these notices of infringement because Watch Tower became aware that
15 these two subscribers infringed Watch Tower's copyrighted works.
16

17 7. In response to the filing of Darkspilver's Motion to Quash Watch Tower's DMCA
18 subpoena, members of the Ex-JW subreddit forum posted messages regarding the subpoena in
19 this matter, its effect on speech, and the present Motion to Quash. See EXJW Reddit
20 Discussion, EFF Backs Redditor in Fight to Stay Anonymous, dated Apr. 2, 2019, available at:
21 https://www.reddit.com/r/exjw/comments/b5x1p0/eff_backs_redditor_in_fight_to_stay_anonym
22 [ous/](https://www.reddit.com/r/exjw/comments/b5x1p0/eff_backs_redditor_in_fight_to_stay_anonym) (last viewed: April 2, 2019), attached hereto as Exhibit B.
23

24 8. The number of members of the r/exjw subreddit community in November 2018,
25 before Watch Tower applied for the underlying DMCA subpoena, was approximately 29,000.
26 See EXJW Reddit Page Community Details as of November 2018 and EXJW Reddit Page
27 Community Details, attached hereto as Exhibit C; Ex. A.
28

9. Only 2,869 of the 34,100 subscribers to the r/exjw subreddit have contributed to the

1 map cited by Darkspilver that claims to show the alleged location of r/exjw subreddit
 2 community members. *See* Polidoro Decl., Exhibit D. Of that number, no more than 1,944
 3 community subscribers to reside in the United States. *See* Polidoro Decl., Exhibit D.

4 10. Watch Tower is not Darkspilver's local church and has no ability to excommunicate
 5 him from his local congregation of Jehovah's Witnesses. Not a single person that has been the
 6 subject of a Watch Tower-sought DMCA subpoena has been excommunicated from their local
 7 church as result of Watch Tower obtaining their identity from a DMCA Subpoena. Watch
 8 Tower has never publicly disclosed the names of the individuals who were the subject of
 9 DMCA subpoenas. Some of the subjects of Watch Tower's DMCA were active Jehovah's
 10 Witnesses before they became the subject of a Watch Tower DMCA Subpoena, and remained
 11 active Jehovah's Witnesses after Watch Tower received identifying information about them.
 12

13 11. The subpoena in the present matter was served on Reddit, Inc. on January 24, 2019.
 14 *See* Affidavit of Service, attached hereto as Exhibit E. Neither Darkspilver nor his counsel ever
 15 reached out to Watch Tower to negotiate an extended deadline for the subpoena.
 16

17 I declare under penalty of perjury under the laws the United States of America that the
 18 foregoing is true and correct.
 19

20 Dated: April 9, 2019



22 Paul D. Polidoro
 23 Associate General Counsel
 24 WATCH TOWER BIBLE AND TRACT
 25 SOCIETY OF PENNSYLVANIA
 26 Legal Department
 27 100 Watchtower Drive
 28 Patterson, NY 12563
 Telephone: 845-306-1000
 Facsimile: 845-306-0709
 Email: inboxLGLipg@jw.org
 (admitted *pro hac vice*)